

Practitioner's Docket No. API-020US**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Mark A. Saab et al.

Application No: 10/674,031

Group No.: 3763

Filed: September 29, 2003

Examiner: Victoria P. Campbell

For: Apparatus and Methods for Bone, Tissue and Duct Dilatation

Mail Stop Amendment**Commissioner for Patents****P.O. Box 1450****Alexandria, VA 22313-1450**

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
BEFORE MAILING DATE OF EITHER A FINAL ACTION
OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))**

NOTE: 37 C.F.R. 1.97: "(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311; or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

(1) The statement specified in paragraph (e) of this section; or

(2) The fee set forth in § 1.17(p)."

NOTE: "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)**37 C.F.R. § 1.10 ***

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☐ facsimile transmitted to the Patent and Trademark Office, (571) 273-8300.


Signature

Date: August 19, 2008

Leslie R. Silverstein

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

NOTE: 37 C.F.R. § 1.704(d): "A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable."

NOTE: "If information submitted during the period set forth in 37 C.F.R. 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, if the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(e). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 C.F.R. § 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63). But see § 103(b) and (c), limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d) and in a request for continued examination (RCE) under § 1.114.

WARNING: No extension of time can be had under 37 C.F.R. 1.136 (a) or (b) for filing an IDS. 37 C.F.R. 1.97(f).

TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

1. The information disclosure statement transmitted herewith is being filed **after** three months of the filing date of this national application or the date of entry of the national stage as set forth in § 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but **before** the mailing date of either:
 - (1) a final action under § 1.113 or
 - (2) a notice of allowance under § 1.311,whichever occurs first.

STATEMENT OR FEE

2. Accompanying this transmittal is

(check either A or B below)

- A. ☐ a statement as specified in 37 C.F.R. § 1.97(e).

OR

- B. ☒ the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c). (\$180.00).

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [6-4]—page 2 of 3)

METHOD OF PAYMENT OF FEE

3.

- ☒ Attached is a ☒ check ☐ money order in the amount of \$ 180.00
- ☒ Authorization is hereby made to charge ~~the amount of \$~~ any fee deficiency
- ☒ to Deposit Account No. 50-1139
- ☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

- ☐ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Reg. No. 26,336

Tel. No.: (978 470-0990

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SIGNATURE OF PRACTITIONER

David Silverstein

(type or print name of practitioner)

Andover-IP-Law

P.O. Address

44 Park Street, Suite 300
Andover, MA 01810

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [6-4]—page 3 of 3)



Practitioner's Docket No. API-020US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent application

of _____
Inventor(s)

for _____
Title of invention

the specification of which is being transmitted herewith

OR

In re application of: Mark A. Saab et al.

Application No.: 10/674,031

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Commissioner for Patents
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Alexandria, VA 22313-1450

**SUPPLEMENTAL
INFORMATION DISCLOSURE STATEMENT**

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory;
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37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 *

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SUPPLEMENTAL
INFORMATION DISCLOSURE STATEMENT

Attached is form PTO-1449A listing additional prior art materials that have come to Applicants' attention which might be considered relevant to this application.

Each of the items listed in PTO-1449A is a U.S. patent for which copies are not required.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "David Silverstein", is written over a horizontal line.

David Silverstein
Registration Number 26,336
Attorney for Applicants
Andover-IP-Law
44 Park Street, Suite 300
Andover, MA 01810
Telephone: (978) 470-0990
Facsimile: (978) 470-0993